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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

GREEN, BRIAN

ART UNIT PAPER NUMBER

3611

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/755,161	Applicant(s) SHARON, MICHAEL	
	Examiner Brian K. Green	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-15 is/are pending in the application.
- 4a) Of the above claim(s) 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11,12,14 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claim 13 has been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in the reply filed on March 10, 2005.

Specification

The abstract of the disclosure is objected to because it should be in single paragraph format. Correction is required. See MPEP § 608.01(b).

The amendments made to the specification are improper since the applicant failed to indicate where the amended sections of the specification are to be inserted.

Claim Objections

Claims 11, 12, and 15 are objected to because of the following informalities: In claim 11, line 4, "said plurality" should apparently be "said plurality of disk-shaped pouches". In claim 11, lines 7-8, "said associated compact disk" should apparently be "an associated compact disk" since there is no antecedent basis for "said associated compact disk". Claim 11 should end with a single period. Claim 15 should end with a period. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reinhold (U.S. Patent No. 1,498,577) in view of Balzer (US Pub. No. 2003/0010815).

The examiner has taken the position that the applicant is not positively claiming the compact disk in claim 14. Reinhold shows in figures 1-6 a disk-shaped pouch (1-3) comprising a first disk-shaped side (1) and a second side (2) that are attached evenly to form a pouch for the containment and removal of a record. Reinhold does not disclose placing a tab on the first disk shaped side. Balzer shows in figures 1-10 the idea of placing a tab (b) on the top edge of a sleeve that can hold CDs, DVDs, etc. In view of the teachings of Balzer it would have been obvious to one in the art to modify Reinhold by placing a tab on the first disk-shaped side since this would allow a plurality of the pouches to be filed together and easily found based upon the indicia placed on the tab, i.e. stored and located in an easier, faster, and more convenient manner.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reinhold (U.S. Patent No. 1,498,577) in view of Balzer (US Pub. No. 2003/0010815) as applied to claim 14 above and further in view of Kohn (U.S. Patent No. 1,295,763).

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The examiner has taken the position that the applicant is positively claiming the compact disk in claim 15. Reinhold in view of Balzer disclose the applicant's basic inventive concept except for placing a center hole in the pouch and making the device stored in the pouch in the form of a compact disk. Kohn shows in the figure the idea of placing a hole (3) in a pouch in order to allow a portion of the article within the pouch to be seen. In view of the teachings of Kohn it would have been obvious to one in the art to modify Reinhold by placing an opening in the pouch since this would allow a portion of the article within the pouch to be seen which would create a more amusing pouch and would allow the contents of the pouch to be determined in a faster and easier manner. Balzer discloses the idea of placing a compact disk within the pouch. In view of the teachings of Balzer it would have been obvious to one in the art to modify Reinhold by placing a compact disk within the pouch since this would allow the pouch to be used to hold a wider range of audio type devices and it is considered within one skilled in the art to replace one type of audio device with another type. The hole in the pouch is considered to be congruent to the hole in the CD. Congruent is defined as being corresponding and corresponding is defined as being similar (Webster's II New Riverside University Dictionary). The holes in the pouch and CD have a similar shape and overlap one another and are therefore considered to be "congruent".

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reinhold (U.S. Patent No. 1,498,577) in view of Balzer (US Pub. No. 2003/0010815) as applied to claim 14 above and further in view of Kawachi (U.S. Patent No. 3,623,615) or Casey et al. (U.S. Patent No. 2,917,179).

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The examiner has taken the position that the applicant is not positively claiming the compact disk in claims 11 and 12. Reinhold in view of Balzer disclose the applicant's basic inventive concept except for attaching the disk-shaped pouch onto a support means which rests on a horizontal surface. Kawachi shows in figures 1-8 the idea of placing a plurality of devices (14) onto a housing (12). Casey et al. shows in figures 1-3 the idea of placing a plurality of audio devices (16) onto a housing (10). In view of the teachings of Kawachi or Casey et al. it would have been obvious to one in the art to modify Reinhold by attaching a plurality of the pouches to a support means since this would allow the pouches with audio devices therein to be stored in a more convenient and orderly manner. In regard to claims 11 and 12, the holders shown by Kawachi and Casey are capable of allowing disk-shaped pouches to perform the function of rotating about a common axis of the support means which is parallel to the horizontal surface.

Response to Arguments

Applicant's arguments filed June 24, 2005 have been fully considered but they are not persuasive.

The applicant argues that one skilled in the art would not look to Balzer for including an indicia tab at the periphery of Reinhold's record case. The examiner disagrees since placing a tab on the first disk-shaped side of Reinhold, as taught by Balzer, would provide the advantage of allowing a plurality of the pouches to be filed together and easily found based upon the indicia placed on the tab, i.e. stored and located in an easier, faster, and more convenient manner.

The applicant argues Kohn does not teach or show a hole in the disk-shaped pouch which is congruent to the hole in the record and the applicant's claim 15 requires that the hole in the

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pouch be congruent to the hole in the compact disk. The hole in the pouch of Kohn is considered to be congruent to the hole in the record. Congruent is defined as being corresponding and corresponding is defined as being similar (Webster's II New Riverside University Dictionary). The holes in the pouch and record have a similar shape and overlap one another and are therefore considered to be "congruent".

The applicant argues that it would not have been obvious to further modify "Reinhold in view of Balzer" in view of Kawachi or Casey et al. since it is essential to Balzer to use the preferred box-shaped housing in figure 11. The examiner disagrees since Reinhold teaches the use of round shaped cases and Kawachi and Casey et al. teach the use of supports for round type articles. One skilled in the art would look to supports that are used for supporting round type articles and not to supports for rectangular articles as suggested by the applicant.

The applicant argues that the tabs of Kawachi are unsuitable for containing indicia and teach against the same. The examiner is not using the Kawachi patent to teach the idea of attaching tabs to the cases. The examiner uses the Balzer patent to attach the tabs to the cases. The examiner is using the Kawachi patent to show that it is known to attach round cases to a support in order to obtain the advantage of allowing the cases to be stored in a more convenient and orderly manner.

The applicant argues that Casey et al. guards against any movement of the records, let alone rotation about a common axis of the housing. The applicant merely defines in claim 12 that the housing is adapted for rotation of the pouches. As broadly defined in claim 12, the housing of Casey et al. is capable of performing the function of being "adapted" to allow pouches to rotate about the axis of the housing.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (571) 272-6644. The examiner can normally be reached on M-F 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


BRIAN K. GREEN
PRIMARY EXAMINER

Bkg
Aug. 26, 2005